

## STAFF REPORT

**TO:** Public Safety Council Committee      **DATE:** May 01, 2006  
**FROM:** William A. Hogan Chief of Police      **PREPARED BY:** Lt. Don Babb  
**SUBJECT:** Police Complaint Process

**Summary Statement:** For Citizens to complain on officers in the past, the process has not been customer friendly. It also is a source of confusion and frustration for citizens, employees, supervisors, and Internal Affairs. Personnel laws that do not allow the details of investigations to be made public often cause this. Not understanding this, citizens and media may assume cover-up, collusion or at worst corruption as we investigating ourselves. Performance issues on employees often are the source of citizen complaints. This is usually not a matter for IA to investigate, as performance issues are more properly handled by the employees' immediate level of supervision. Supervisors were not calling back complainants when they call APD communications. People are feeling "put off" by the department. Supervisors were routinely advising complainants to call IA with a complaint when contacted by unsatisfied, aggrieved, or angry citizens. This was not a proper procedure as supervisors should investigate and handle performance matters. Supervisors were regularly making it difficult for citizens to complain and seek a remedy when they feel they have been mistreated. Often supervisors are able to explain an officer's action to the satisfaction of the calling party (for example traffic accident reports-further explanation after people have further processed their incident or received their report).

**Review:** A citizen friendly process was developed to address police misconduct or performance improvement. Forms are available in PID and to supervisors to take a Citizen's complaint. Forms have been distributed to the Housing Authority and to the NCAAP. This form is for citizens that do not wish to talk to a supervisor in person. Instructions are printed on the reverse of the form. IA will follow current policy and investigate serious allegations or those assigned by command staff. An increase sanction allowed for violation of to old Rules of Conduct "6E" Unsatisfactory Performance, which is more in line with our Guiding Principles, and citywide policy. We have made sure complaint call received by APD Communications a documented dispatched call with case number and record of whom it was assigned for activity. Supervisors are primary call takers for this action. We have seen an increase in the number of complaints, but we are tracking more complaints. Also we are now tracking and keeping number of the commendation officers receives. Considering the number of contact the department has with the public, (94,000 in 2005) over all the number is low.

**Recommendation:** Continue to vigorously track all citizens' complaints to ensure we are committed to our Guiding Principles and continue receiving citizens concerns openly. Use information provided to determine areas where improvements need to be made in personal development as well as overall service to the community.

Memorandum To: William Hogan  
Chief of Police

From: Lieutenant Don W. Babb  
Officer OF Professional Standards

Date: May 3, 2006

Subject: Yearly Report Summary

In review of the Complaints of Employee misconduct for 2005 the following information was calculated. Several important factors should be noted. First, during this year we implemented a new set of Rules of Conduct, which were realigned to better reflect of Guiding Principles, and we arranged the violations under, Integrity, Fairness, Respect, and Professionalism. The previous numbering system was used for consistency, in this report, so we would not have to go back and change any reports, 2006 will reflect new system. Second, to more accurately reflect complaints against employees, all complaints will now be tracked, not only instances of misconduct but performance issues which include work performance and officer courtesy. This practice did not start until after half of the year was over, so the number could be expected to increase next year and explain the increase this year. Finally this year we will include a brief account of the commendation our employees receive with expectation of next year to have a complete accounting of employees who are complemented by citizens, for the excellent work they perform everyday. .

Looking at the number of complaint over the past three years you see a steady increase, this could be misleading with more complaints being tracked this year. Over the next several months close attention needs to be the number to see if complaints are increasing or is the capturing of more data inflating these statistics. Even with the increase when you consider the men and women of the Asheville Police Department came in contact with the public over 94,000 times in 2005 the percentage of complaints are extremely low. With that in mind calculating the number of commendation were we able to retrieve for 2005, men and women of the Department received 107 commendations, exceeding the number of complaints.

Overall the number of complaint for Unsatisfactory Performance has increase from eleven in 2004 to seventeen in 2005. This is directly related to our new objective of improved tracking system. The second highest is, Use of Force with twelve, but this is only an increase of one from 2004. This year we have already conducted in-service training in regards to use of force and implemented a new subject resistance action report to improve our monitoring of, use of force and to see where we need to provide training in the area of application of force.

I would recommend we continue to train our employees on Ethics, Departmental Policies, Verbal Judo, and Emotional Intelligence. All of which directly relate to work performance, and to continually monitor use of force issues and develop continued

strategies for training with regards to the application of force by officers. I will be forwarding this report to Recruitment and Development for training suggestions.

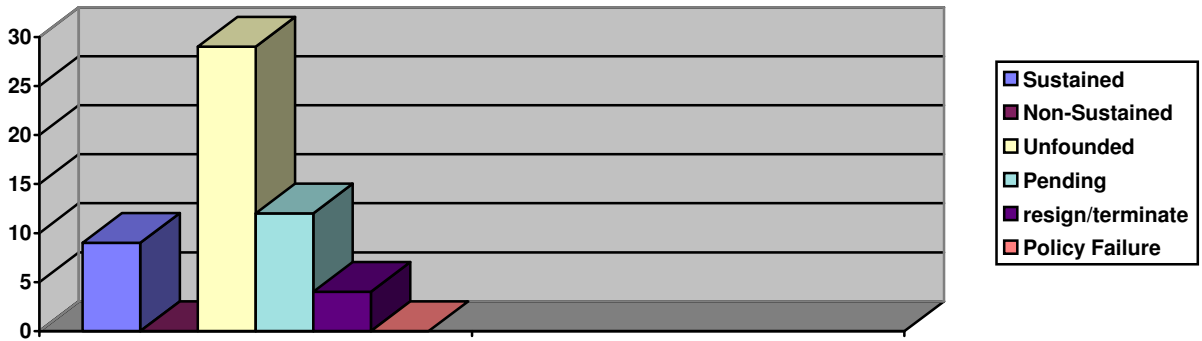
DWB/ghm

**OFFICE OF PROFESSIONAL STANDARDS  
INTERNAL AFFAIRS  
AUDIT  
January 1, 2005 – December 31, 2005**

**TOTAL CASES INVESTIGATED:** 54(3 cases contained multiple violations, 8 cases with multiple employees)

**DISPOSITION/STATUS:**

a. Sustained		9	17%
b. Non-Sustained		0	0%
c. Unfounded		29	54%
d. Pending	12	22%	
e. Resign/Termination		4	07%
f. Policy Failure		0	0%



**COMPLAINTS FILED PER DIVISION**

a. Patrol		47	85%
b. CID		3	05%
c. Support		1	02%
d. Administration		0	0%
e. Multi-Division		1	02%
f. Unknown	2	04%	

**COMPLAINTS INITIATED BY SUPERVISORS AGAINST SUBORDINATES:** 39

**RACE OF COMPLAINANT/RACE OF EMPLOYEE (8 cases had multiple employees)**

a. White complainant/white employee	34	55%
b. White complainant/black employee	2	03%
c. Black complainant/white employee	18	29%
d. Black complainant/black employee	2	03%
e. White Complainant/Hispanic employee	0	0%
f. Black Complainant/Hispanic employee	1	02%

g. Indian Complainant/White Employee	0	0%
h. Indian Complainant/Black Employee	0	0%
i. Unknown	5	08%

**COMPLAINTS AGAINST EMPLOYEE BY POSITION (8 cases had multiple employees)**

a. Officers	58	94%
b. Sergeant	0	0%
c. Lieutenant	0	0%
d. Captain	0	0%
e. Major	0	0%
f. Civilians	2	3%
g. Unknown	2	3%

**COMPLAINTS INVESTIGATED BY DIVISION**

	<u>2005</u>		<u>2004</u>		<u>2003</u>		<u>2002</u>		<u>2001</u>		<u>2000</u>	
Internal Affairs	28	52%	18	56%	12	52%	14	70%	21	75%	13	59%
Patrol Supervisors	24	44%	13	41%	11	50%	4	20%	4	14%	6	27%
CID Supervisors	1	02%	1	03%	0	0	0	0	0	0	1	04%
Support Services	1	02%	0	0	0	0	2	10%	3	11%	1	04%
Administration	0	0	0	0	0	0	0	0	0	0	1	04%

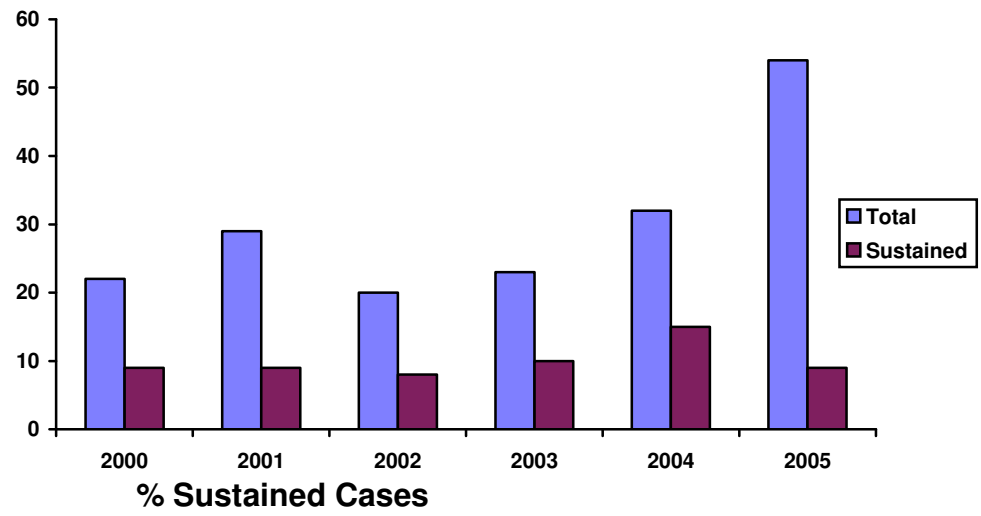
CONDUCT CODE	RULE OF CONDUCT	TOTAL	SUSTAINED	PENDING
6-E	Unsatisfactory Performance	17	4	4
14-A	Use of Force	12	1	5
2-C	Unbecoming Conduct	3	1	0
10-A	Conformance to Laws	6	0	3

**TRENDS**

	00	01	02	03	04	05
Minority citizen complaints (female, Hispanic, African American)	4	5	6	7	15	7
APD Supervisor initiated complaints	12	13	12	12	13	39
Co-Worker initiated			1	0	1	1

Citizen Generated Complaints	10	13	7	9	18	15
<b>Total Complaints</b>	<b>22</b>	<b>26</b>	<b>20</b>	<b>23</b>	<b>32</b>	<b>54</b>

	2000	2001	2002	2003	2004	2005
Total Cases	22	29	20	23	32	54
Sustained	9	16	8	10	15	9
Percentage	41%	55%	40%	43%	44%	17%



Addendum to January 1 – December 31, 2005

## **DEFINITIONS**

**Sustained** – The allegation is true; the action of the department of the officer was inconsistent with departmental policy.

**Non-Sustained** – There is insufficient proof to confirm or to refute the allegations.

**Policy Failure** – The allegation is true; the action of the department or the officer was not inconsistent with agency policy. The policy requires modification.

**Exonerated** – The allegation is true; the action of the department or the officer was consistent with department policy.

**Unfounded** – The allegation is demonstrably false.

---

## **RULES OF CONDUCT**

### ***5-A Insubordination***

Employees shall promptly obey any lawful orders of a supervisor. This will include orders relayed from a supervisor by an employee of the same or lesser rank or position

### ***8-A, Truthfulness***

Employees shall truthfully answer all questions specifically directed and narrowly related to the scope of employment and operations of the department which may be asked of them.

### ***14-A, Use of Force***

Police officers shall not use more force in any situation than is reasonably necessary under the circumstances. Police officers shall use force in accordance with law and departmental procedures.

### ***2-C, Unbecoming Conduct***

Employees shall conduct themselves at all times, both on and off duty, in such a manner as to reflect favorably on the department.

### ***6-E, Unsatisfactory Performance***

Employees shall maintain sufficient competency to properly perform their duties and assume the responsibilities of their positions. Employees shall perform their duties in a manner which will maintain the highest standards of the department. Unsatisfactory performance may be demonstrated by a lack of knowledge of the applications of laws required to be enforced; an unwillingness or inability to perform assigned tasks; the failure to conform to work standards established for the employee's rank, grade, or position; the failure to take appropriate action on the occasion of a crime, disorder, or other condition deserving police attention; or absence without leave.



Signature of Complainant

## **Your issue is important to the Asheville Police Department.**

**In order to facilitate the process, please follow these simple directions:**

Whether your issue is complimentary of or a complaint against an officer, please fill out the form as completely as possible.

Important information is the who, what, when, where and how of what happened to you.

- If your issue is of a second hand nature or you were a witness to a matter of concern, please be clear on those facts.
- We must be able to contact you for follow up investigation should it be warranted. Include an accurate day and night phone number, address and email address (if available).
- A review of this matter WILL BE conducted by at least a command level employee of Asheville Police Department.
- You will be informed of all matters material to the investigation within the guidelines of NC law.
- If you have not been contacted directly within 10 working days please contact the Asheville Police Department office of Professional Standards at (828) 259-5907, or you may email the office of the Chief of Police at: [Internet/police@ashevillenc.gov](mailto:Internet/police@ashevillenc.gov)
- Please deliver to a supervisor of the Asheville Police Department or mail the completed form to:

***Professional Standards-Internal Affairs  
Asheville Police Department  
PO Box 7148  
Asheville, NC 28802***

Summary of Incident: (You may attach your own document if needed) Page\_\_\_\_\_

[illegible]

The above information is complete and true to the best of my knowledge:

\_\_\_\_\_  
Signature of Complainant